

IP 01-0299-C M/S Young v DaimlerChrysler
Judge Larry J. McKinney

Signed on 10/19/04

NOT INTENDED FOR PUBLICATION IN PRINT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

MELINDA YOUNG,)	
Plaintiff,)	
)	
vs.)	
)	IP 01-0299-C-M/S
DAIMLERCHRYSLER CORPORATION,)	
Defendant.)	
)	

**ORDER ON DEFENDANT'S MOTION TO
ALTER OR AMEND THE VERDICT**

This cause is now before the Court on the defendant's, DaimlerChrysler Corporation, motion to alter or amend the verdict rendered by a jury in this cause on June 21, 2004. DaimlerChrysler has brought this motion pursuant to Federal Rule of Civil Procedure 59(e) ("Rule 59(e)"). In its motion DaimlerChrysler argues that the Court should reduce the jury's award of punitive damages for two reasons: 1) because as a matter of law, a jury should not be able to award punitive damages when it finds intentional discrimination but not a failure to accommodate; and 2) because the jury's award of punitive damages in addition to compensatory damages based only on emotional distress are duplicative and improper under *State Farm Mutual Automobile Insurance Co. v. Campbell*, 538 U.S. 408 (2003). Plaintiff, Melinda Young ("Young"), contends that DaimlerChrysler's arguments are without merit because 1) a finding of a good faith effort to accommodate does not necessarily imply that DaimlerChrysler made a good faith effort not to discriminate at all and 2) a finding of compensatory damages in this case did not necessarily entirely rely upon emotional distress.

DaimlerChrysler's first argument that the jury verdict for punitive damages should be overturned is stated as a question of law, however, the underlying argument about the jury's findings is a factual one: whether or not the jury believed that DaimlerChrysler acted with malice or reckless disregard to Young's rights to be free from intentional discrimination. DaimlerChrysler contends that the jury's finding that it made good faith efforts to accommodate Young's disability forbids a finding in Young's favor on punitive damages because an "employer may avoid liability by showing . . . that it engaged in good faith efforts to implement an anti-discrimination policy." *Bruso v. U. Airlines, Inc.*, 239 F.3d 848, 858 (7th Cir. 2001). DaimlerChrysler argues that its good faith efforts in one aspect of its dealings with Young should translate into a bar on punitive damages because it couldn't have acted in reckless disregard of her rights.

But the jury in this case found that DaimlerChrysler had intentionally discriminated against Young. It is upon this finding that the jury based its punitive damages award and the evidence is sufficient to support a finding that DaimlerChrysler had a policy of discriminating against disabled employees with respect to transfers, that Young was adversely affected by this policy, that at least one if not two persons who either influenced or made transfer decisions related to Young failed to objectively evaluate her capabilities because of her disability, and that there was no good faith effort on DaimlerChrysler's part to implement a different policy with regard to transfers of disabled employees. DaimlerChrysler's attempt to have this Court re-weigh the evidence on this issue is improper.

DaimlerChrysler also contends that the punitive damages award in this case was excessive under *State Farm Mutual Automobile Insurance Co. v. Campbell*, 538 U.S. 408 (2003). DaimlerChrysler asks that the Court reduce the award or eliminate it in its entirety. In *Campbell*, the Supreme Court reaffirmed its prior holding in *BMW of North America, Inc. v. Gore*, 517 U.S. 559 (1996), in which the

Court

instructed courts reviewing punitive damages to consider three guideposts: (1) the degree of reprehensibility of the defendant's misconduct; (2) the disparity between the actual or potential harm suffered by the plaintiff and the punitive damages award; and (3) the difference between the punitive damage awarded by the jury and the civil penalties authorized or imposed in comparable cases.

Campbell, 538 U.S. at 481 (citing *Gore*, 517 U.S. at 575). Appellate courts conduct a *de novo* review of a trial court's application of these principals to the jury's award. *See id.* The Court addresses each guidepost in turn.

The degree of reprehensibility of DaimlerChrysler's conduct was sharply disputed by the parties in this case. Young presented evidence that DaimlerChrysler had a policy that discriminated against every disabled employee, including Young, with regard to transfer and promotion opportunities. Moreover, Young presented evidence that DaimlerChrysler specifically prevented Young from obtaining certain jobs because of her disability. DaimlerChrysler contends that because it presented evidence that Young was allowed to transfer, despite this policy or these incidents, that its conduct was not reprehensible enough to sustain the jury's punitive damage award in this case. To evaluate the degree of reprehensible conduct, the Court must consider

whether: the harm caused was physical as opposed to economic; the tortious conduct evinced an indifference to or a reckless disregard of the health or safety of others; the target of the conduct had financial vulnerability; the conduct involved repeated actions or was an isolated incident; and the harm was the result of intentional malice, trickery, or deceit, or mere accident.

Id. at 419. Moreover, the Court should presume Young was made whole for her injuries by the compensatory damages. *Id.*

Applying these factors to the instant case, the Court finds the degree of reprehensible conduct

relatively high. The evidenced showed that the greatest harm caused to Young was physical and mental, although there was some evidence of economic harm because of DaimlerChrysler's failure to assign Young to a department in which she might qualify for overtime for some period of time. It was the repeated failure of DaimlerChrysler to assign Young to a permanent position that met her disability restrictions, and its failure adequately to train her or objectively to evaluate her because of her disability that evidences the carelessness with which DaimlerChrysler apparently handled Young's employment.

In addition, the evidence supports a finding of DaimlerChrysler's indifference or recklessness to the health or safety of Young because it repeatedly put her in positions that aggravated rather than alleviated stress to her disabled arm. Moreover, in the context of a civil rights violation, and in the context of the jury instructions given in this case, the evidence supports the jury's finding that DaimlerChrysler was indifferent to or recklessly disregarded Young's rights. There was also some evidence that supports a finding that Young was financially vulnerable because without the position at DaimlerChrysler, Young would have had to reapply for social security benefits at a lower annual income than her annual income from the plant.

Finally, there was evidence to support a finding that DaimlerChrysler acted with deceit, at a minimum, with respect to intentional discrimination. Each employee asked about whether or not Young was treated consistently with DaimlerChrysler's policy to not transfer disabled employees either testified in the affirmative, or stated they were aware that there were "rumors" among employees about such treatment, but there was no written policy that limited such employees from transferring. Those who testified to the latter appeared to make excuses for the "unwritten" policy by insisting that Young was not in a "particular department" when she was not allowed to transfer. But, when questioned further about this, the latter witnesses admitted that most disabled employees were not assigned to a department. The

testimony on all counts was clear: if you are not assigned to a department, you are not entitled to overtime. Therefore, the evidence supports a conclusion that DaimlerChrysler used deceit or trickery when dealing with Young's transfers and her entitlement to certain benefits.

Moreover, DaimlerChrysler offered little testimony about the type of training program or employment discrimination education any of its supervisors or human resources persons received. One DaimlerChrysler witness testified that when he had input into whether or not Young received a transfer, he said she should not receive the transfer because she could not do the job because of her disability. The witness also testified that he never tried to objectively determine whether or not Young could do the job because "it was obvious" to him that she could not. This was the only witness who testified about why Young did not receive a promotion to a position that she felt met her disability limitations. This evidence clearly supports a finding of intentional malice and reckless disregard for Young's rights. In light of the minimal testimony about DaimlerChrysler's training on discrimination issues, the jury was entitled to, and obviously did, find DaimlerChrysler's conduct with respect to Young reprehensible. Having considered the facts in the light most favorable to the verdict, the first guidepost weighs heavily in favor of the punitive damages award.

The next guidepost is the disparity between the actual harm suffered by Young and the punitive damages award. Although the Supreme Court has eschewed a particular mathematical formula for drawing a line between a constitutional and an unconstitutional punitive damage award, ratios of punitive damages to actual damages greater than single digits have not been favored unless "a particularly egregious act has resulted in only a small amount of economic damages." 538 U.S. at 425 (quoting *Gore*, 517 U.S. at 582). The appropriate ratio "must be based upon the facts and circumstances of [DaimlerChrysler's] conduct and

the harm to [Young].” *Id.* Here, the ratio was 45-to-1. Evaluating the facts in the light most favorable to the verdict, the harm to Young was both physical, in the aggravation of her injuries, and economic, in the failure to assign Young as a permanent employee of a department so that she could qualify for over time. The harm to Young was largely emotional because of her continual struggle to obtain transfers into a department in which she could perform the job and receive training and advancement opportunities, and because of the stress caused by DaimlerChrysler’s failure to address the problems Young faced in the jobs in which it placed her. However, all the harm is tempered by the fact that Young is still employed by DaimlerChrysler. Moreover, it is clear that Young’s salary has increased over time and that she is currently employed in a position that she has wanted and that meets her physical limitations.

Under these circumstances, the Court finds that the punitive damage award is disproportionate to the harm caused. This finding is bolstered by the fact that the legislature has seen fit to cap the amount of damages any one plaintiff may obtain for damages caused by an employer’s violation of the ADA. 42 U.S.C. § 1981a(b)(3). *See also Hennessy v. Penril Datacomm Networks, Inc.*, 69 F.3d 1344, 1355-56 (7th Cir. 1995) (discussing the remedial structure under Title VII, which provides the model for the remedial structure under the ADA). In addition, in closing argument, Young’s counsel told the jury that the range for punitive damage awards was two to three times the amount of compensatory damages, or perhaps up to ten times the amount of compensatory damages. Although Young predicated the amount she suggested on a much higher compensatory damage estimate of \$600,000.00, the assessment of punitive damages by the jury at forty-five times compensatory damages well exceeds even Young’s suggestion of an appropriate multiplier. This guidepost counsels that a reduction in the jury’s punitive damage assessment is appropriate.

The third guidepost, a comparison of awards in similar cases or any civil penalties, reveals that the punitive damages awarded by the jury was also excessive. Although Young points to one Seventh Circuit case in which the plaintiff received \$6,000.00 in compensatory damages and \$3.5 million in punitive damages, which the court reduced to the statutory maximum of \$300,000.00, *see Fine v. Ryan Int'l Airlines*, 305 F.3d 746, 755-56 (7th Cir. 2002), a larger number of similar cases use a maximum three times multiplier as an appropriately constitutional punitive damages amount. *See, e.g., David v. Caterpillar, Inc.*, 324 F.3d 851, 865 (7th Cir. 2003) (affirming the district court's reduction of punitive damages to a 3:1 ratio); *Lawyer v. 84 Lumber Co.*, 991 F. Supp. 973, 976-77 (N.D. Ill. 1997); *Dubin v. LaGrange Country Club*, No. 95 C 5316, 1997 WL 323831 (N.D. Ill. June 11, 1997). Moreover, in *Fine*, the plaintiff was fired and there was evidence that both the general counsel and the president of the company concurred in the retaliation in that case. *Id.* at 756. Here, Young is still employed by DaimlerChrysler and while the evidence shows that the reprehensibility of DaimlerChrysler's conduct was relatively high, there is no evidence that the higher level management in the company explicitly concurred in the adverse employment decisions in Young's case, they merely turned a blind eye to the pervasiveness of the policy that adversely affected Young.

For the foregoing reasons, the Court finds that the \$4.5 million punitive damage award is unconstitutional, however, the egregiousness of DaimlerChrysler's conduct, coupled with the jury's assessment that its conduct justified a very high punitive damage award¹ convinces the Court that anything

¹The Court notes that DaimlerChrysler does not seem to dispute that the jury was correctly instructed on the law of punitive damages that applies to this case. Therefore, the Court considers the jury's assessment relevant evidence of the circumstances surrounding the punitive damage award.

less than a 3:1 ratio for fixing the appropriate amount would not accurately reflect the circumstances of this case. Accordingly, the jury's punitive damage award is reduced to \$300,000.00. As already stated by the Court in the judgment in this matter, application of the statutory cap allows Young to recover \$100,000.00 in compensatory damages and \$200,000.00 in punitive damages. The Court will assess costs and fees in a separate order.

CONCLUSION

For the foregoing reasons, the Court **GRANTS in part and DENIES in part**, defendant's, DaimlerChrysler Corporation, Motion to Amend or Alter the Verdict in this cause. Judgment entered in favor of the plaintiff, Melinda Young, on her claim for intentional discrimination against DaimlerChrysler Corporation remains unchanged in the total amount of \$300,000.00. Defendant's, DaimlerChrysler Corporation, request for oral argument is **DENIED**.

IT IS SO ORDERED this ____ day of October, 2004.

LARRY J. McKINNEY, CHIEF JUDGE
United States District Court
Southern District of Indiana

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